



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36310]

Kansas & Oklahoma Railroad, LLC—Operation Exemption—Colorado Pacific Railroad, LLC

Kansas & Oklahoma Railroad, LLC (K&O), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to permit K&O to operate approximately 121.9 miles of rail line (the Line) between milepost 747.5 near Towner, Colo., and milepost 869.4 near NA Junction, Colo., pursuant to an agreement with Colorado Pacific Railroad, LLC (CPR).

K&O states that it is a wholly owned subsidiary of Watco Holdings, Inc., and that CPR, a subsidiary of KCVN, LLC, is the current owner of the Line. See KCVN, LLC—Feeder Line Application—Line of V & S Ry., Located in Crowley, Pueblo, Otero, & Kiowa Ctys., Colo., FD 36005 (STB served Dec. 18, 2017). According to K&O, there has been no traffic on the Line since 2012.

K&O states that it has entered into an Operating Agreement with CPR. K&O further states that the agreement between K&O and CPR does not contain any provision that prohibits K&O from interchanging traffic with a third party or limits K&O's ability to interchange with a third party.

K&O certifies that its projected annual revenues as a result of this transaction will not result in K&O's becoming a Class II or Class I rail carrier, but its projected annual revenues will exceed \$5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption

becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. Concurrently with its verified notice, however, K&O filed a petition for waiver of the labor notice requirements. K&O's waiver request will be addressed in a separate decision.

K&O states that it expects to consummate the transaction on or sometime after the effective date of the exemption. The Board will establish the effective date in its separate decision on the waiver request.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 21, 2019.

All pleadings, referring to Docket No. FD 36310, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on K&O's representative, Karl Morell, Karl Morell & Associates, 440 1st Street, N.W., Suite 440, Washington, DC 20001.

According to K&O, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: June 10, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Regena Smith-Bernard,

Clearance Clerk.

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